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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,514	12/21/2000	Paul V. Phibbs	5218.87	1007

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EXAMINER

GIBBS, TERRA C

ART UNIT PAPER NUMBER

1635

DATE MAILED: 01/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/747,514

Applicant(s)

PHIBBS ET AL.

Examiner

Terra C. Gibbs

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-8 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

This Office Action is a response to Applicants Amendment and Declaration filed December 15, 2003.

Claims 1-3 and 5-9 are pending in the instant application.

#### ***Response to Amendment***

Applicants Declaration under 37 C.F.R. §1.131 is acknowledged, has been considered, and is found persuasive.

#### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 3, 8, and 9 were rejected under 35 U.S.C. 102(a) as being anticipated by O'Toole et al. (Journal of Bacteriology, 2000 Vol. 182:425-431). This rejection is withdrawn in view of Applicant Declaration under 37 C.F.R. §1.131, filed December 15, 2003.

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***Claim Rejections - 35 USC § 103***

Claims 1, 2, 3, 8, and 9 were rejected under 35 U.S.C. 103(a) as being anticipated by Wolf et al. (Journal of Bacteriology, 1991 Vol. 173:4700-4706) in view of O'Toole et al. (Journal of Bacteriology, 2000 Vol. 182:425-431). This rejection is withdrawn in view of Applicant Declaration under 37 C.F.R. §1.131, filed December 15, 2003.

***Claim Objections***

Claims 5, 6, and 7 were objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent cannot depend on a rejected claim. This objection was made in error. The Examiner apologizes for objected claims 5, 6, and 7 as being in improper form. The objection against claims 5, 6, and 7 is withdrawn.

However, after careful reconsideration of the claims, claims 1, 2, 3, 5, 6, 7, and 8 are newly rejected under 35 U.S.C. 102(b) as presented below:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Smyth et al. (Journal of General Microbiology, 1975 Vol. 90:91-99).

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Claim 1 is drawn to a method of screening for compounds that inhibit the virulence of *Pseudomonas* bacteria, comprising the steps of providing a culture medium comprising *Pseudomonas* bacteria and an amidase operon repressor, wherein the culture medium contains fluoroacetamide in an amount toxic to said bacteria in the absence of said amidase operon repressor; administering a test compound to said bacteria; and then detecting the poisoning of said bacteria by said fluoroacetamide, wherein the poisoning of said bacteria by said fluoroacetamide indicates said test compound has antivirulence activity against *Pseudomonas* bacteria. Claims 2, 3 and 5-8 depend from claim 1 and include all the limitations of claim 1, with the further limitations, wherein said *Pseudomonas* bacteria is *Pseudomonas aeruginosa*; wherein said amidase repressor is succinic acid; wherein said step of detecting the poisoning of said bacteria is carried out by detecting cell death or inhibition of cell growth; and wherein said test compound is a member of a combinatorial library.

Smyth et al. disclose providing a culture medium containing *Pseudomonas aeruginosa* bacteria and an amidase operon repressor, succinic acid or pyruvate; containing fluoracetamide; and administering a test compound, in this case butyramide, acetamide, lactamide, or acetate; and determining growth rates and amidase specific activity of said bacteria (see Tables 1 to 3). Smyth et al. further disclose, seven fluoroacetamide-resistant mutants with low amidase activity gave rise to secondary mutants strains on succinate + butyramide plates (see Abstract).

It is emphasized that the claimed method, as recited, has only 3 steps – providing culture media comprising *Pseudomonas* bacteria, an amidase operon repressor, and fluoroacetamide; adding a test compound; and detecting poisoning of said bacteria. Smyth et al. recites all of these steps and therefore Smyth et al. anticipate the instant invention.

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***Conclusion***

Claim 9 is objected to as being dependent on a rejected base claim.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terra C. Gibbs whose telephone number is (703) 306-3221. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John L. LeGuyader can be reached on (703) 308-0447. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-8693.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

tcg

December 19, 2003

  
KAREN A. LACOURCIERE, PH.D.  
PRIMARY EXAMINER

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